

PURCHASE ORDER - STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions are incorporated into and form part of the Purchase Order. The Purchase Order is comprised of these Standard Terms and Conditions together with the front-end page(s) generated by UBC Supply Management's Oracle / PeopleSoft computer program application (or any successor program from time to time adopted by UBC Supply Management), including any other documents or components referenced in the front-end page(s) as being part of the Purchase Order, and any change orders, addenda, revisions, amendments and supplementary agreements issued by UBC from time to time pertaining thereto (as approved by the "Supplier" or "Vendor", if such approval is required according to the Purchase Order). The terms "Supplier" and "Vendor" are used interchangeably in the Purchase Order - both refer to the entity identified as the "Supplier" or the "Vendor" on the front-end page(s).

1. The Work

As to work, including services, (the "Work") to be performed or supplied by Supplier:

- 1.1 Supplier shall perform the Work set out in this Purchase Order in a proficient, diligent and timely manner and in accordance with any directives and requirements reasonably prescribed by UBC from time to time in connection with this Purchase Order.
- 1.2 Supplier shall ensure that all persons it employs or retains to perform the Work are competent to perform it and are properly trained, instructed and supervised.
- 1.3 Supplier shall not change any persons it employs or retains to perform the Work without prior written approval from UBC.
- 1.4 Supplier shall supply and pay for all labour, materials, supplies, equipment, facilities, approvals and licenses necessary or advisable to perform its obligations under this Purchase Order.

2. Goods

As to supplies, equipment, furniture, wares, merchandise, materials and other goods (the "Goods") to be supplied by Supplier:

- 2.1 Supplier shall provide the Goods described in this Purchase Order, during the Term pursuant to the dates set out on the Purchase Order, regardless of the date of execution or delivery of this Purchase Order.
- 2.2 Unless the parties otherwise agree in writing, Supplier shall supply and pay for all labour, materials, supplies, equipment, facilities, approvals and licenses necessary or advisable to perform its obligations under this Purchase Order.
- 2.3 Supplier warrants that all Goods will:
 - (a) conform to any samples, specifications, drawings or other description furnished by UBC; and
 - (b) be new, of merchantable quality, free from any defect in material or workmanship, and fit for any purpose expressly disclosed by UBC to Supplier.
- 2.4 Supplier warrants that it has or will have at the time of delivery to UBC good and marketable title to the Goods and that, on payment for the Goods, UBC will obtain such title to the Goods free and clear of all liens, charges and encumbrances.
- 2.5 Supplier warrants that neither the supply of any Goods to UBC nor the use of those Goods by UBC will constitute an infringement of any patent, copyright, trade-mark, trade secret or other intellectual property right of any third party.
- 2.6 As to the delivery of Goods:
 - (a) Delivery slips will accompany all shipments of Goods and identify those Goods shipped, previously shipped or back ordered, as the case may be, and will show the Purchase Order number, the place from where the Goods were shipped, the name of the carrier and the bill of lading number.
 - (b) Unless otherwise specified in the Purchase Order, all deliveries of Goods will be made on terms "DDP" (delivered duty paid to a named place of destination), as that term is defined in the publication Incoterms 2010 published by the International Chamber of Commerce. As a result, Supplier will bear all risks and costs, including duties, taxes and other charges, of delivering the Goods, cleared for importation, to UBC's named destination.
 - (c) Where a date required for delivery is stated on the Purchase Order, timely delivery is of the essence and Supplier will be responsible to ensure that such delivery is made, and will notify UBC immediately in writing of any anticipated delays and the reasons therefor.
 - (d) Goods will not be deemed or construed to be delivered until actually received by UBC at the place designated on the Purchase Order for shipment of the Goods.

- (e) Supplier will notify UBC immediately in writing if the Goods cannot be delivered in the quantities shown or at the times specified on the Purchase Order.
- (f) All Goods will be properly classified, described, packaged, marked and labelled by Supplier for shipment, and will be in proper condition for shipping by the mode of transportation chosen and in accordance with any applicable provincial or federal laws or regulations.
- (g) Where by reason of a delay in shipment, it is necessary to make expedited or express or air express shipments of the Goods in order to deliver the Goods on the date required in the Purchase Order, UBC may direct that the Goods be so shipped, and the difference between the freight and the applicable expedited or express rates will be paid by Supplier and may be deducted by UBC.

3. Inspection

3.1 The performance of this Purchase Order will be subject to UBC's scrutiny, inspection and rejection, at Supplier's cost, and Supplier will:

- (a) permit any representative of UBC to attend at the place(s) of performance by Supplier; and
- (b) provide all reasonable assistance to any representative of UBC for the purpose of inspection.

3.2 Payment for the Work or Goods prior to inspection will not constitute an acceptance thereof.

4. Payment

4.1 The total compensation for the Work and Goods, as applicable, are set out in this Purchase Order.

4.2 The compensation as set out in this Purchase Order shall be inclusive of all expenses incurred by Supplier, and of all fees for any subcontractors or suppliers engaged by Supplier in relation to this Purchase Order. Supplier shall ensure timely payment of all such subcontractors and suppliers .

4.3 Upon satisfactory completion of the performance of this Purchase Order by Supplier, Supplier shall deliver to UBC an invoice setting out the Purchase Order number, the outstanding balance owed, and the calculation of the entire compensation and applicable payments and credits.

4.4 Within 30 days of receipt of the invoice from Supplier, UBC shall pay the amount of the balance properly due to Supplier, plus GST and PST as provided for in Section 6, as applicable.

4.5 UBC may withhold or set off against any payment due to Supplier any charge, liability or indebtedness owed by Supplier to UBC or which under this Purchase Order is to be paid by or charged to Supplier.

4.6 UBC may, as a condition of making final payment due to Supplier, require Supplier to execute and deliver a full and final release and discharge in favour of UBC, in such form as UBC may prescribe.

4.7 Unless otherwise specified in this Purchase Order, all references to monetary amounts are in Canadian currency.

5. Changes

5.1 UBC may make changes at any time and from time to time to any specifications or requirements relating to the Work or the Goods. The compensation set out in this Purchase Order shall be adjusted to account for such changes, provided Supplier notifies UBC in writing of the proposed adjustment and UBC agrees in writing to such adjustment prior to performance of the Work or shipment or delivery of the Goods.

5.2 No extras or other changes shall be undertaken or commenced without an authorized approval or change order issued by UBC.

6. Taxes

6.1 UBC shall be liable for GST and unless otherwise expressly stipulated PST as may be applicable.

6.2 If Supplier is not registered for GST, then, where applicable, UBC may self-assess and remit the GST to or as directed by Canada Revenue Agency.

6.3 In this Purchase Order:

- (a) "GST" refers to the taxes on goods and services levied and administered by the Government of Canada, which is commonly referred to as the GST.

- (b) "PST" refers to the taxes on goods and services levied and administered by the Province of British Columbia (other than, for greater certainty, the HST or any portion thereof).

- 6.4 Unless otherwise specified in this Purchase Order, Supplier shall be responsible for and shall pay any other applicable taxes, rates, customs, charges, duties, imposts and levies.
- 6.5 If Supplier is not a resident of Canada, UBC may be required by law to withhold income tax, for services provided in Canada, from Supplier and to remit such tax to or as directed by Canada Revenue Agency, on behalf of Supplier. If Supplier is not a resident of Canada or in case of any uncertainty as to whether Supplier is a non-resident, UBC is entitled to withhold and remit, and shall be credited under this Purchase Order for all remittances. If UBC was required to withhold income tax but failed to withhold, then Supplier will on demand pay to UBC the amount of the required withholding to reimburse UBC for the amount required to be remitted.
- 6.6 Supplier shall apply for and, immediately on receipt, remit to UBC any available refund, credit, rebate or remission of federal or provincial tax or duty that UBC has paid Supplier or agreed to pay Supplier under this Purchase Order.

7. Liens and Builders Lien Act

Where the *Builders Lien Act*, S.B.C. 1997 c. 45 (the "Builders Lien Act") applies:

- 7.1 Provided that payment is made by UBC when due according to the terms of this Purchase Order, Supplier is responsible to ensure that no builders lien or claim of builders lien is filed or claimed by Supplier or any of its employees, personnel or subcontractors, and if any such lien or claim of lien is filed or claimed then Supplier shall, by payment into court or posting of a bond or otherwise, cause the same to be forthwith removed and discharged.
- 7.2 UBC may holdback as required (as reasonably interpreted and applied by UBC) under the Builders Lien Act. [Note: The Builders Lien Act stipulates that no builders lien holdback is to be retained from an architect, engineer, worker or material supplier.]
- 7.3 UBC shall be the "payment certifier" for the purposes of the Builders Lien Act in respect of amounts due to Supplier under this Purchase Order, unless a consultant or other third party has been named by UBC for this purpose. Supplier acting alone shall be the "payment certifier" for the purposes of the Builders Lien Act in respect of amounts due to any "subcontractor" as defined under the Builders Lien Act.

8. Suspension of Performance and Termination of the Purchase Order

- 8.1 UBC may at any time temporarily suspend the performance under or terminate this Purchase Order by written notice to Supplier stating the effective date of the suspension or termination.
- 8.2 If UBC terminates this Purchase Order, the extent of UBC's liability to Supplier is limited to payment, subject to Section 4.5, for all compliant Goods supplied and compliant Work performed in accordance with this Purchase Order up to and including the effective date of termination. This payment discharges UBC from all liability or obligation to Supplier in connection with this Purchase Order or its termination.

9. Insurance

- 9.1 Supplier shall at all times, at Supplier's expense, take out and maintain in good standing professional liability insurance (as applicable) and general (comprehensive commercial) liability insurance, including product liability coverage, all-risk contractors' equipment insurance, and automobile liability insurance, with such insurers and providing for such amounts of coverage as may be reasonably required by UBC from time to time, and will promptly deliver up to UBC, as and when requested, written proof of such insurance. If requested, UBC will be named as an additional insured under any such policy. If requested by UBC, such insurance will provide that it cannot be cancelled, or materially changed so as to affect the coverage provided under this Purchase Order, without the insurer giving at least 30 days prior written notice to UBC. The general (comprehensive commercial) liability insurance shall be for \$2,000,000 unless otherwise from time to time reasonably required by UBC.
- 9.2 Supplier may be required to take out such additional insurance as may be considered necessary and desirable by UBC. All such additional insurance shall be at no expense to UBC.

10. Indemnity

- 10.1 Supplier will fully indemnify and save harmless UBC and its board of governors and every member thereof and the employees, students, servants, agents and representatives of UBC from any loss, damage, demand, claim (including any lien), expense and liability (including in respect of physical injury or death) arising in connection with (i) any failure, breach or default under this Purchase Order or in the performance of this Purchase Order; (ii) any negligence or wrongful act of Supplier or its officers, directors, employees, servants, agents or subcontractors; and (iii) any physical harm to or destruction of personal or real property caused by Supplier. In addition, Supplier shall reimburse UBC, on a full indemnity basis, in respect of all legal fees and disbursements incurred in respect of the foregoing. This indemnity shall survive any termination or expiry of this Purchase Order.

11. Freedom of Information and Protection of Privacy Act

- 11.1 UBC is subject to the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996 c.165 ("FIPPA"). Disclosure or release of information may be required under this legislation.
- 11.2 UBC may choose, in the interest of public accountability, to make public or disclose this Purchase Order and associated records and information, in whole or in part. Supplier agrees that UBC shall be entitled to do so and consents thereto (except only for any specific information isolated and identified by Supplier as confidential, and for which, if required by UBC, Supplier establishes that disclosure is excluded under FIPPA).
- 11.3 If Supplier falls within the meaning of "service provider" as that term is defined under FIPPA, then Supplier shall comply with applicable requirements of FIPPA relative to personal information.

12. Confidentiality

- 12.1 Supplier shall not, and shall ensure that its employees, personnel and subcontractors do not, use, copy, disclose or otherwise communicate, any information gained by them in the course of their duties related to this Purchase Order (and not generally available to the public) except as is necessary in the proper discharge of those duties. This obligation shall survive any termination or expiry of this Purchase Order.

13. Ownership of Proprietary Rights

- 13.1 UBC will be the owner of all right, title and interest (collectively the "IP Rights") including all worldwide patent, copyright, trade-mark, trade secret, industrial design and other intellectual property rights of any kind in and to all inventions, ideas, concepts, designs, data, software, specifications, documents, compilations, works and the like (collectively the "IP Works") developed, made, invented, created, authored, generated, conceived or contributed to by Supplier or any subcontractor in connection with the subject matter or this Purchase Order or any Purchase Order. Supplier hereby waives all moral rights relative to the IP Works. UBC shall at all times have the right to control and review all IP Works. Upon the request from time to time of UBC Supplier will provide or cause to be provided written assignments and waivers of moral rights for all worldwide intellectual and other property rights in and to all such IP Works in order to evidence the ownership of such IP Works by UBC, as may from time to time be reasonably required by UBC, including copies of written assignment agreements and waivers of moral rights by employees and independent contractors.
- 13.2 The IP Works do not include those that were independently developed, made, invented, created, authored, generated, conceived or contributed to by Supplier or any subcontractor prior to Supplier entering into this Purchase Order with UBC, provided Supplier or subcontractor as applicable can prove such independent development through written records. As to any such excluded items, Supplier hereby grants a perpetual, non-exclusive, royalty free, no-charge, worldwide, irrevocable license in favour of UBC, for use by UBC for UBC's proposed purposes and associated and ancillary purposes.
- 13.3 The IP Works are deemed to be confidential information and for this purpose, Supplier shall comply with Section 12 with respect to the IP Works.
- 13.4 Supplier represents and warrants that no third party has any right or claim to any intellectual property in the IP Works, or any part thereof, and the IP Works, and the use thereof by UBC, will not infringe the intellectual property rights of any person.
- 13.5 For greater certainty, the indemnity in Section 10 shall apply in respect of the subject matter of this Section 13.

14. Independent Contractor

- 14.1 By mutual agreement, the terms of this Purchase Order will be carried out by Supplier as an independent contractor at arm's length from UBC, and not in any other capacity or relationship including agency, partnership or employee-employer.

15. Conflicts of Interest; Supplier Code of Conduct; Remedies

- 15.1 While performing under this Purchase Order, Supplier may offer and provide work, services or goods as an independent contractor to other parties (including others at UBC) provided that such outside contracts or retainers do not interfere in any way with Supplier's performance under this Purchase Order, or give rise to a conflict of interest between Supplier's duties to such other parties and Supplier's duties to UBC under this Purchase Order.
- 15.2 Supplier hereby declares that no potential, actual or perceived conflict of interest exists with respect to the subject of this Purchase Order. If Supplier becomes aware of any potential, actual or perceived conflict of interest, Supplier shall notify UBC immediately.
- 15.3 Supplier shall comply with the Supply Management Supplier Code of Conduct, which is available at:

<https://finance.ubc.ca/vendors/supplier-code-conduct>

- 15.4 If UBC becomes aware of any failure, breach or non-compliance in connection with the subject matter of this Section 15, including situations of a potential, actual or perceived conflict of interest that are undisclosed or were not disclosed in a timely manner, then, in addition to its other rights and remedies, UBC may, upon review of the situation or circumstances, in its sole discretion, elect to terminate this Purchase Order without liability to Supplier (other than for Work or Goods supplied to date, subject to deduction for consequential loss or any costs that may be incurred by UBC as a result of such termination), or UBC may approve of the situation or circumstances and take such measures as UBC considers are warranted (and for greater certainty Section 22 shall apply in this context).

16. Supplier Accountable

16.1 Supplier shall be responsible and accountable for its agents, contractors, suppliers, invitees, officers, directors and employees and any assignees, and their respective agents, contractors, suppliers, invitees, officers, directors and employees and any assignees.

17. Worker Safety

17.1 Supplier shall comply with, and shall ensure that any subcontractors comply with, all relevant WorkSafeBC (Workers' Compensation Board of BC) requirements and other workers' safety requirements and regulations.

18. Foreign Workers

18.1 It is the responsibility of Supplier to ensure that it has obtained all necessary employment authorizations for any foreign workers and contractors.

19. Assignment and Subcontracting Restricted

19.1 Supplier shall not assign or otherwise transfer this Purchase Order in whole or in part, or subcontract any of its obligations under this Purchase Order, except with the prior written consent of UBC.

20. Amendments

20.1 No addition, deletion or other modification to the provisions of any other part of this Purchase Order will be binding on UBC unless accepted in writing by UBC.

21. Manufacturer Warranties

21.1 Supplier shall assign all manufacturer warranties to UBC for products manufactured by third party manufacturers and provided to UBC by Supplier pursuant to this Purchase Order, and shall take all necessary steps as required by such third party manufacturers to effect assignment of such warranties to UBC. Payment by UBC to Supplier under this Purchase Order may be deferred, as to all or part as UBC may require, until the foregoing has been carried out to the satisfaction of UBC.

22. Approvals etc.

22.1 No provision in this Purchase Order requiring UBC's consent or approval shall be deemed to have been fulfilled or waived unless the written consent or approval of UBC relating to the particular matter or instance has first been obtained and, without limiting the generality of the foregoing, no prior consent or approval and no condoning, excusing or overlooking by UBC on previous occasions when such a consent or approval was required shall be taken to operate as a waiver of the necessity of such consent or approval whenever required under this Purchase Order.

22.2 Where any provision of this Purchase Order requires the consent or approval of UBC, then:

- (a) such provision will not be construed, interpreted or applied to mean that UBC's consent or approval will not be unreasonably withheld, unless such provision expressly states that UBC's consent or approval will not be unreasonably withheld; and
- (b) UBC may stipulate reasonable requirements and terms, as a condition of giving such consent or approval, and UBC may withhold its consent or approval until such requirements and terms have been satisfied and complied with, and Supplier hereby covenants with UBC that, unless Supplier withdraws its request for UBC's consent or approval forthwith after Supplier is advised of the requirements and terms stipulated by UBC, Supplier will satisfy and comply with any requirements and terms so stipulated by UBC.

23. Entire Agreement and Conflicts

23.1 This Purchase Order (including any documents or components referenced as part of the Purchase Order, as described above) constitutes (together with any change orders, addenda, revisions, amendments and supplementary agreements in effect from time to time, as described above) the entire agreement between the parties with respect to the subject matter set out herein and supersedes and replaces all prior agreements between UBC and Supplier with respect to the same. The provisions of this Purchase Order will take precedence over any conflicting provisions in any invoice or statement of account.

24. General Provisions

- 24.1 In all provisions of this Purchase Order containing a release or disclaimer or waiver or exculpatory language in favour of UBC or an indemnity in favour of UBC, references to UBC include (whether or not expressly stated) the UBC board of governors and every member thereof, and all directors, officers, agents, servants, students, employees and representatives of UBC and its affiliated entities, it being understood and agreed that, for the purposes of this Section 24.1 and such provisions of this Purchase Order, UBC is deemed to be acting as agent and trustee on behalf of them and for their benefit to the extent necessary for them to receive and be entitled to the benefits of this Section 24.1 and such provisions. Supplier will, upon the request from time to time of UBC, execute and deliver, under seal as a deed if so requested by UBC, an affirmation and covenant in favour of any one or more of the said persons, as may be nominated from time to time by UBC, in form and content reasonably prescribed by UBC, to give effect or further effect, if deemed necessary by UBC in its sole determination, to the provisions of this Section 24.1.
- 24.2 Supplier shall comply with all applicable and relevant laws, regulatory standards and rules, including any rules, regulations, policies and procedures from time to time prescribed by UBC, relative to the subject matter of this Purchase Order. Without limiting the generality of the foregoing, in the absence of other standards being stipulated:
- (a) all work performed under this Contract shall conform to, or exceed the minimum standards of the BC Building Code, Canadian Standards Association, WorkSafeBC (the Workers' Compensation Board of BC), National Fire Protection Association, Canadian Electric Code, BC Plumbing Code, Factory Mutual Engineering, Underwriter's Laboratory of Canada, BC Fire Code Regulation, and the standards of the manufacturers of material supplied for the work, as applicable; and
 - (b) specifically, per British Columbia Safety Authority (BCSA) Information Bulletin No: B-E3 071019 3 Revision 6 (February 29, 2016) and successor bulletins from time to time, all electrical equipment must bear evidence of either a mark or a label of a certification agency accredited by the Standards Council of Canada or an approval label issued by the British Columbia Safety Authority under section 10 of the *Safety Standards Act*. Refer to this bulletin for the certification/approval marks and labels that are acceptable in British Columbia.
- 24.3 This Purchase Order shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without reference to British Columbia's conflicts of law rules. Supplier hereby attorns to the jurisdiction of the Courts of the Province of British Columbia in the event of any dispute or proceeding hereunder.
- 24.4 The provisions of these terms and conditions shall (whether or not expressly stated) survive the completion of the performance of this Purchase Order.
- 24.5 This Purchase Order will enure to the benefit of UBC and its successors and assigns and will be binding on Supplier and its successors.
- 24.6 A waiver by UBC of any of its rights hereunder will not be deemed to be a waiver of any other right nor a continuing waiver of that particular right.
- 24.7 Supplier acknowledges that no exclusive right, pre-emptive right, right of first opportunity, or other similar right, express or implied, is given to or conferred upon Supplier under or by virtue of or related to this Purchase Order, unless expressly set out in this Purchase Order.
- 24.8 Any notice required to be given to Supplier under this Purchase Order will be in writing and may be given by delivery in person or by courier, by registered or certified mail, or by electronic facsimile transmission or other means of electronic communication capable of producing a printed copy to the mailing address, facsimile number or email address of Supplier stated in this Purchase Order, or such other address, facsimile number or email address as Supplier may specify by notice in writing given from time to time to UBC. Any such notice given to Supplier will be deemed to have been given and received by Supplier, if by facsimile or other electronic communication, on successful transmission, or, if delivered, on delivery. For any notice required to be given to UBC under this Purchase Order, notice in writing addressed and delivered by courier to:
- Financial Operations,
5th Floor - TEF3
6190 Agronomy Road
Vancouver BC V6T 1Z3 Canada
- (or such other address as UBC may from time to time specify by notice in writing given to Supplier) shall be required, and will be deemed to have been given and received on such delivery.
- 24.9 Time is of the essence of this Purchase Order. The Work is to be performed and Goods are to be supplied in accordance with the schedule provided by UBC or, if no schedule is provided, in accordance with the dates indicated on this Purchase Order. UBC reserves the right to make reasonable adjustments from time to time to the said schedule or dates.

- 24.10 Should any provision of this Purchase Order be or become illegal, invalid or not enforceable, it shall be considered separate and severable from this Purchase Order and the remaining provisions shall remain in force and binding.
- 24.11 The headings in this Purchase Order are for convenience of reference only and shall not affect the construction of this Purchase Order or any provision hereof.
- 24.12 UBC may convert paper records of this Purchase Order and all other associated documentation (each, a "Paper Record") into electronic images (each, an "Electronic Image"). Each such Electronic Image shall be considered as an authoritative copy of the Paper Record and shall be legally binding on the parties and admissible in any legal, administrative or other proceeding as conclusive evidence of the contents of such document in the same manner as the original Paper Record.
- 24.13 Whenever the singular or masculine or neuter is used in this Purchase Order, the same shall be construed to include the plural or feminine or body corporate where the context of this Purchase Order or the parties hereto may so require. The words "include" or "including" as used herein shall not be construed as words of limitation.
- 24.14 Supplier shall be deemed to have accepted these Standard Terms and Conditions, and the rest of this Purchase Order, upon the earlier of: (i) written notice given by Supplier to UBC that it has accepted and agreed to these Standard Terms and Conditions and the rest of this Purchase Order; and (ii) commencement of the provision of the Work or the Goods by Supplier.

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End of Standard Terms and Conditions